

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

## **PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff Wolf Run Hollow, LLC (“Plaintiff”), by and through its undersigned counsel, files this Original Complaint against Compass Bancshares, Inc., Compass Bank, BancorpSouth Bank, Bank of Texas, N.A., Texas Capital Bancshares, Inc., Texas Capital Bancshares, N.A., ViewPoint Bank, WoodForest Financial Group Inc., WoodForest National Bank, Peoples State Bank, First International Bank, First Federal Bank Texas, First State Bank, and Community Bank (collectively “Defendants”) as follows:

**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendants' infringement of Plaintiff's United States Patent No. 6,115,817 entitled "Methods and Systems for Facilitating Transmission of Secure Messages Across Insecure Networks" (the "'817 patent"; a copy of which is attached hereto as Exhibit A). Plaintiff is the exclusive licensee of the '817 patent with respect to the Defendants. Plaintiff seeks injunctive relief and monetary damages.

**PARTIES**

2. Plaintiff is a limited liability company organized and existing under the laws of the State of Delaware. Plaintiff maintains its principal place of business at 170 Kinnelon Road, Suite 13, Kinnelon, New Jersey 07405. Plaintiff is authorized to do business in Texas. Plaintiff is the exclusive licensee of the '817 patent with respect to the Defendants, and possesses the right to sue for infringement and recover past damages.

3. Upon information and belief, Compass Bancshares, Inc. ("Compass Bancshares") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 701 32nd Street, Birmingham, Alabama 35296.

4. Upon information and belief, Compass Bank ("Compass Bank") is a subsidiary of Compass Bancshares. Upon information and belief, Compass Bank is a corporation organized and existing under the laws of the State of Alabama, with its principal place of business located at 701 32nd Street, Birmingham, Alabama 35296. Compass Bancshares and Compass Bank are collectively referred to as the "Compass Bank Defendants."

5. Upon information and belief, BancorpSouth Bank ("BancorpSouth") is a corporation organized and existing under the laws of the State of Mississippi, with its principal

place of business located at One Mississippi Plaza, 201 South Spring Street, Tupelo, Mississippi 38804.

6. Upon information and belief, Bank of Texas, N.A. (“Bank of Texas”) is a national banking association organized and existing under the laws of the State of Texas, with its principal place of business located at 5956 Sherry Lane, Dallas, Texas 75225.

7. Upon information and belief, Texas Capital Bancshares, Inc. (“Texas Capital Bancshares, Inc.”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 200 McKinney Avenue, Suite 700, Dallas, Texas 75201.

8. Upon information and belief, Texas Capital Bancshares, N.A. (“Texas Capital Bancshares, N.A.”) is a subsidiary of Texas Capital Bancshares, Inc. Upon information and belief, Texas Capital Bancshares, N.A. is a national banking association organized and existing under the laws of the State of Texas, with its principal place of business located at 200 McKinney Avenue, Suite 700, Dallas, Texas 75201. Texas Capital Bancshares, Inc. and Texas Capital Bancshares, N.A. are collectively referred to as the “Texas Capital Defendants.”

9. Upon information and belief, ViewPoint Bank (“ViewPoint”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 2101 Cluster Road, Plano, Texas 75075.

10. Upon information and belief, WoodForest Financial Group Inc. (“WoodForest Financial”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 1330 Lake Robbins Drive, The Woodlands, Texas 77380

11. Upon information and belief, WoodForest National Bank (“WoodForest National”) is a subsidiary of WoodForest Financial. Upon information and belief, WoodForest

National is a national banking association organized and existing under the laws of the State of Texas, with its principal place of business located at 1330 Lake Robbins Drive, The Woodlands, Texas 77380. WoodForest Financial and WoodForest National Bank are collectively referred to as the “WoodForest Defendants.”

12. Upon information and belief, Peoples State Bank (“Peoples State”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 116 East 3rd Street, Hallettsville, Texas 77964.

13. Upon information and belief, First International Bank (“First International”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 1912 K Avenue, Suite 204, Plano, Texas 75074.

14. Upon information and belief, First Federal Bank Texas (“First Federal”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 1200 South Beckham Avenue, Tyler, Texas 75711.

15. Upon information and belief, First State Bank (“First State”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 500 West Main Street, Hallsville, Texas 75650.

16. Upon information and belief, Community Bank (“Community Bank”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 101 Community Boulevard, Longview, Texas 75602.

**JURISDICTION AND VENUE**

17. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

18. The Court has personal jurisdiction over each Defendant because: each Defendant has minimum contacts within the State of Texas and the Eastern District of Texas; each Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; each Defendant has sought protection and benefit from the laws of the State of Texas; each Defendant regularly conducts business within the State of Texas and within the Eastern District of Texas; and Plaintiff's causes of action arise directly from Defendants' business contacts and other activities in the State of Texas and in the Eastern District of Texas.

19. More specifically, each Defendant, directly and/or through intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States, the State of Texas, and the Eastern District of Texas. Upon information and belief, each Defendant has committed patent infringement in the State of Texas and in the Eastern District of Texas, has contributed to patent infringement in the State of Texas and in the Eastern District of Texas, and/or has induced others to commit patent infringement in the State of Texas and in the Eastern District of Texas. Each Defendant solicits customers in the State of Texas and in the Eastern District of Texas. Each Defendant has many paying customers who are residents of the State of Texas and the Eastern District of Texas and who each use respective Defendant's products and services in the State of Texas and in the Eastern District of Texas.

20. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b).

**COUNT I – PATENT INFRINGEMENT**

21. The ‘817 patent was duly and legally issued by the United States Patent and Trademark Office on September 5, 2000 after full and fair examination. Plaintiff is the exclusive licensee of the ‘817 patent with respect to the Defendants, and possesses all rights of recovery under the ‘817 patent with respect to the Defendants, including the right to sue for infringement and recover past damages.

22. Upon information and belief, the Compass Bank Defendants have infringed and continue to infringe one or more claims of the ‘817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.bbvacompass.com>. Upon information and belief, the Compass Bank Defendants act as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, the Compass Bank Defendants have also contributed to the infringement of one or more claims of the ‘817 patent, and/or actively induced others to infringe one or more claims of the ‘817 patent, in this district and elsewhere in the United States.

23. Upon information and belief, BancorpSouth has infringed and continues to infringe one or more claims of the ‘817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website

<https://www.bancorpsouthonline.com>. Upon information and belief, BancorpSouth acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via its secure messaging systems and methods. Upon information and belief, BancorpSouth has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

24. Upon information and belief, Bank of Texas has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.bankoftexas.com>. Upon information and belief, Bank of Texas acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via its secure messaging systems and methods. Upon information and belief, Bank of Texas has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

25. Upon information and belief, the Texas Capital Defendants have infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.texascapitalbank.com>. Upon information and belief, the Texas Capital Defendants act as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, the Texas Capital Defendants have also contributed to the infringement of one or more claims of the

‘817 patent, and/or actively induced others to infringe one or more claims of the ‘817 patent, in this district and elsewhere in the United States.

26. Upon information and belief, ViewPoint has infringed and continues to infringe one or more claims of the ‘817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <https://www.viewpointbank.com>. Upon information and belief, ViewPoint acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via its secure messaging systems and methods. Upon information and belief, ViewPoint has also contributed to the infringement of one or more claims of the ‘817 patent, and/or actively induced others to infringe one or more claims of the ‘817 patent, in this district and elsewhere in the United States.

27. Upon information and belief, the WoodForest Defendants have infringed and continues to infringe one or more claims of the ‘817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.woodforest.com>. Upon information and belief, the WoodForest Defendants act as the mastermind to direct or control users to request, transmit and/or receive secure messages via their secure messaging systems and methods. Upon information and belief, the WoodForest Defendants have also contributed to the infringement of one or more claims of the ‘817 patent, and/or actively induced others to infringe one or more claims of the ‘817 patent, in this district and elsewhere in the United States.

28. Upon information and belief, Peoples State has infringed and continues to infringe one or more claims of the ‘817 patent by making, using, providing, offering to sell, and selling

(directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.psbtexas.com>. Upon information and belief, Peoples State acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via its secure messaging systems and methods. Upon information and belief, Peoples State has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

29. Upon information and belief, First International has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.fibtx.com>. Upon information and belief, First International acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via its secure messaging systems and methods. Upon information and belief, First International has also contributed to the infringement of one or more claims of the '817 patent, and/or actively induced others to infringe one or more claims of the '817 patent, in this district and elsewhere in the United States.

30. Upon information and belief, First Federal has infringed and continues to infringe one or more claims of the '817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.ffbttx.com>. Upon information and belief, First Federal acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via its secure messaging systems and methods. Upon information and belief, First Federal has also contributed to the infringement of one or more

claims of the ‘817 patent, and/or actively induced others to infringe one or more claims of the ‘817 patent, in this district and elsewhere in the United States.

31. Upon information and belief, First State has infringed and continues to infringe one or more claims of the ‘817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.fsbweb.com>. Upon information and belief, First State acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via its secure messaging systems and methods. Upon information and belief, First State has also contributed to the infringement of one or more claims of the ‘817 patent, and/or actively induced others to infringe one or more claims of the ‘817 patent, in this district and elsewhere in the United States.

32. Upon information and belief, Community Bank has infringed and continues to infringe one or more claims of the ‘817 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, secure messaging systems and methods, including via the website <http://www.communitybanklongview.com>. Upon information and belief, Community Bank acts as the mastermind to direct or control users to request, transmit and/or receive secure messages via its secure messaging systems and methods. Upon information and belief, Community Bank has also contributed to the infringement of one or more claims of the ‘817 patent, and/or actively induced others to infringe one or more claims of the ‘817 patent, in this district and elsewhere in the United States.

33. Each Defendant’s aforesaid activities have been without authority and/or license from Plaintiff.

34. Plaintiff is entitled to recover from the Defendants the damages sustained by Plaintiff as a result of the Defendants' wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

35. Defendants' infringement of Plaintiff's exclusive rights under the '817 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**JURY DEMAND**

36. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

Plaintiff respectfully requests that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more claims of the '817 patent have been infringed, either literally and/or under the doctrine of equivalents, by one or more Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendants' acts of infringement together with pre-judgment and post-judgment interest;
- C. That one or more of the Defendants' acts of infringement be found to be willful from the time that Defendants became aware of the infringing nature of their actions, which is the time of filing of Plaintiff's Original Complaint at the latest,

and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendants from further acts of (1) infringement, (2) contributory infringement, and (3) actively inducing infringement with respect to the claims of the '817 patent;

E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and

F. Any further relief that this Court deems just and proper.

Respectfully submitted,

Dated: October 30, 2009

/s/ William E. Davis, III  
William E. Davis, III  
TX State Bar No. 24047416

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